

REMARKS

In the **final** Office Action mailed April 01, 2011 the Office noted that claims 38-57 were pending and rejected claims 38-43 and 45-51. No new matter has been added. The Office's rejections and objections are traversed below.

ALLOWABLE SUBJECT MATTER

The Office has indicated that claims 47-51 would be in a condition for allowance if re-written in independent form. The Applicants thank the Office for the consideration given the claims and submit that the claims are allowable for the reasons discussed below.

REJECTIONS under 35 U.S.C. § 102

Claims 38-43, 45 and 46 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Zink, DE 20109056. The Applicant respectfully disagrees and traverses the rejection with an argument.

On page 2 of the Office Action, with respect to "said flexible fastening flap is glued, welded or otherwise **locally bonded** to said exposed surface of said object to render a firm and durable connection," (emphasis added) as in claim 38, the Office asserts "wherein the anchoring member (5) is selected from the group of a threaded end, a fixing eyelet, a cable guide and a cable bushing (figures 1 & 2)."

However, Zinc discusses a web from which straps extend which act as an anchoring member to which a personal fall restraint may be secured. The web is rolled out on a horizontal roof structure and then covered by a layer of gravel which acts as a load thereon.

Accordingly the safety device of Zinc is based on a ballasted system, and is not a safety device that is physically bonded to the surface. There is no physical bond between the web and the surface, and as such the web of Zinc cannot be considered to be a fastening flap which is glued, welded or otherwise bonded to the surface.

As a result, the device of Zinc may only be applied on horizontal roof structures and is not fit for tilted or vertical applications. Moreover, the device of Zinc requires a relatively large free surface to apply the web. Zinc describes in this regard (page 3, 2<sup>nd</sup> paragraph) a web of no less than 25 square meters covered by a layer of gravel of 8 centimeters thick. An amount of gravel used for the system of Zinc is thus 2m<sup>3</sup> gravel. With an average density of 1500 kg/m<sup>3</sup> this totals to not less than 3000kg of gravel. The web loosely placed on the surface necessitates this weight to keep it in place in the event of a fall of a person secured to the web. All this weight however has to be carried to the (roof) surface.

The present invention according to claim 38 solves these drawbacks of the ballasted system described by Zinc, by

applying a fastening flap which for an adequate fixation on the (roof) surface is glued, welded or otherwise bonded (adhered) for instance to an existing roof covering or to the bare (roof) surface.

The resulting physical bond between the fastening flap and the surface in practice even proves to be sufficiently strong for a safety device with a fastening flap with a size of  $1\text{m}^2$  or less and weighing only a few kilograms. It will be evident that such a safety device can much more conveniently be carried to the (roof) surface on which it is to be applied. Furthermore application of such a device is not limited to just horizontal surfaces. Importantly, since the physical bond is of the type which does not puncture the surface, the drawbacks of conventional mechanical fixation means which puncture the surface, such as bolts, are also overcome.

Since the prior art of record fails to disclose or suggest such a particular safety device comprising a fastening flap which is glued, welded or otherwise bonded to the surface on which it is applied, claim 38 is considered both novel and non-obvious.

Arguments as to patentability apply likewise to claim 45. For at least the reasons discussed above, claims 38 and 45 and the claims dependent therefrom are not anticipated by Stearns.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. § 102. It is also submitted that claims 38-57 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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